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LAW OFFICES

KELLER AND HECKMAN

Ms. Donna R. Searcy  
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In order to implement the program access provisions of the Cable Act, as directed by Congress, it is essential that the Commission adopt rules that -- at a minimum -- broadly prohibit discrimination in price, terms and conditions of sale of programming. The Commission cannot impose on alternative distributors detailed, expensive antitrust-type requirements regarding the nebulous concept of "harm" to "subscribers" at the "retail level" in the "same geographic area" as a vertically integrated programmer operates a cable system. Discrimination is per se harmful and violative of the statute. No additional "harm" need be shown.

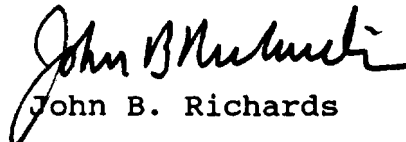
Nor can the Commission lawfully "grandfather" all non-conforming, existing contracts. Congress specifically considered the matter of "grandfathering" and preserved only a very narrow class of existing contracts. All other contracts were not grandfathered.

Different types of distributors need not demonstrate that they provide "like services" in order to receive protection under the law. Congress crafted new program access requirements in order to protect all multichannel video programming distributors ("MVPDs") from discrimination.

The Commission should require all programmers to file General Rate Structures ("GRS") to provide a cable base line for analyzing discrimination complaints. The GRS must specify particular prices, terms and conditions offered to the cable industry. Any MVPD would establish a prima facie case of discrimination if the prices, terms and conditions offered to the MVPD were different in any respect from the GRS on file with the Commission.

Your attention to this matter is appreciated. Should you require any additional information, please feel free to contact the undersigned.

Sincerely,

  
John B. Richards

cc: Alexandra (Sandy) Wilson  
Charles C. Hewitt, President  
Satellite Broadcasting &  
Communications Association  
Diane S. Killory, Esquire